



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/070,981	03/08/2002	Marvin S Schwartz	214255605002	4846

7590 04/21/2006

David B Cochran
Jones Day Reavis & Pogue
North Point
901 Lakeside Avenue
Cleveland, OH 44114

EXAMINER

COBANOGLU, DILEK B

ART UNIT PAPER NUMBER

3626

DATE MAILED: 04/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/070,981	Applicant(s) SCHWARTZ ET AL.	
	Examiner Dilek B. Cobanoglu	Art Unit 3626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 March 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>3/8/2002</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-21 have been examined.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

3. Claims 1-4, 7 and 12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 discloses a graphical user interface for medical data entry into a database; it's not clear what kind of interface is claimed; is it a screen only, or a software which makes the system to create the graphical user interface. Claim 2 is rejected because of the dependency.

Claim 3 is a system claim, but it does not contain the parts of a system, it contains three screens as mentioned in the first claim. Claim 4 is rejected because of the dependency.

Claim 7 is a system claim, but it does not contain the parts of a system, it comprises a computer system and software. It's not clear if the Applicant wanted to claim a computer system or software to operate the computer system. Claim 8 is rejected because of the dependency.

Claims 7 and 12 disclose a "carepath regimen". Examiner did not able to find the meaning of the word "carepath" neither in the medical dictionary nor in the Applicant's specifications. Clarification is required. By this time, Examiner considers that the Applicant means references for practitioners to consult regarding courses of action to obtain a diagnosis and alternative treatments for various conditions.

Claim Rejections - 35 USC § 101

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

5. Claims 1, 3, 5 and 7 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claim 1 discloses three kinds of screens: summary, history and physical examination and order entry. The claimed invention is non-statutory because it is not any new and useful process, machine, manufacture, or composition of matter or any new and useful improvement.

Claim 3 is a system claim, but it does not contain the parts of a system, it contains three screens as mentioned in the first claim, which is not a new and useful process, machine, manufacture, or composition of matter or any new and useful improvement.

Claim 5 is disclosing a method of generating a graphical user interface; and the steps are not providing a useful, concrete, and tangible result. After entering a

diagnosis via the graphical user interface, selecting a treatment can be done by a user or a program.

Claim 7 is a system claim, but it does not contain the parts of a system, it contains a computer system and a software, which is not a new and useful process, machine, manufacture, or composition of matter or any new and useful improvement.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 1-21 are rejected under 35 U.S.C. 102(e) as being unpatentable by Evans 9U.S Patent No. 5,924,074).

A. As per claim 1, Evans discloses a graphical user interface for medical data entry into a database, comprising:

- a) a summary screen for entering summary information into the database (Evans; col. 5, lines 56-57, col. 6, lines 14-36 and Fig. 5);
- b) a history and physical examination screen for entering history and physical examination information into the database (Evans; col. 5, lines 56-57, col. 6, lines 14-36 and Fig. 5); and

c) an order entry screen for entering order entry information into the database (Evans; col. 5, lines 56-57, col. 6, lines 14-36 and Fig. 5).

B. As per claim 2, Evans discloses a graphical user interface as defined in claim 1 further comprising a plurality of tabs, each tab corresponding to a single screen and operative to display the corresponding single screen when selected (Evans; col. 6, lines 37-54 and Fig. 5-8).

C. As per claim 3, Evans discloses a computer implemented medical data entry system comprising a database and a graphical user interface including:

a) a Summary screen for entering summary information into the database (Evans; col. 5, lines 56-57, col. 6, lines 14-36 and Fig. 5);

b) a history and physical examination screen for entering history and physical examination information into the database (Evans; col. 5, lines 56-57, col. 6, lines 14-36 and Fig. 5);

c) an order entry screen for entering order entry information into the database (Evans; col. 5, lines 56-57, col. 6, lines 14-36 and Fig. 5).

D. As per claim 4, Evans discloses a system as defined in claim 3 wherein the graphical user interface further includes means for selecting a single screen to be displayed (Evans; col. 5, lines 56-66 and Fig. 3, 5-8).

E. As per claim 5, Evans discloses a computer implemented method of generating a graphical user interface for documenting a patient encounter, the method comprising:

- a) providing a computer having a display (Evans; abstract, col. 2, lines 45-58 and col. 14, lines 60-64);
- b) generating a graphical user interface on the display, wherein the graphical user interface includes a first screen for entry of summary patient information, a second screen for entry of history and physical examination information, and a third screen for entry of order information (Evans; col. 5, lines 56-57, col. 6, lines 14-36 and Fig. 5);
- c) entering a diagnosis via the graphical user interface (Evans; col. 5, lines 40-49); and
- d) selecting a treatment in response to the entered diagnosis (Evans; col. 5, lines 49-55).

F. As per claim 6, Evans discloses a method as defined in claim 5 further comprising

- e) selecting a prescription in response to the selection of the treatment (Evans; col. 5, lines 49-55).

G. As per claim 7, Evans discloses a system to facilitate compliance with a carepath comprising:

- a) a computer system having a memory capable of storing patient information in a first datafile (Evans; col. 4, line 64 to col. 5, line 8 and col. 3, lines 31-35) and carepath regimen information in a second datafile (Evans; col. 7, lines 52-64);

b) software operative to receive patient information, to compare the patient information with the carepath regimen information, and to suggest a carepath regimen compliant treatment (Evans; col. 5, lines 30-55 and col. 7, lines 45-52).

H. As per claim 8, Evans discloses a system as defined in claim 7 wherein the first datafile is a single concatenated file (Evans; col. 4, line 64 to col. 5, line 8 and col. 7, lines 45-52).

I. As per claim 9, Evans discloses a computer-readable storage medium including computer executable code (Evans; col. 12, line 66 to col.13, line 5) for carrying out the steps of:

a) providing a database containing a plurality of predetermined diagnoses that correspond to carepath compliant treatments (Evans; col. 7, lines 52-57);

b) accessing the database (Evans; col. 2, lines 45-47);

c) entering a patient diagnosis into the database (Evans; col. 5, lines 40-49);

d) matching the patient diagnosis to one of the predetermined diagnoses to determine the corresponding carepath compliant treatment (Evans; col. 7, lines 57-64); and

e) suggesting a carepath compliant treatment (Evans; col. 7, lines 57-64).

J. As per claim 10, Evans discloses;

Art Unit: 3626

- a) accessing a database containing patient information (Evans; col. 2, lines 45-64);
- b) displaying the patient information (Evans; col. 2, lines 47-58);
- c) entering additional patient information and a diagnosis to the database via a three screen graphical user interface (Evans; col. 6, lines 37-54, col. 7, lines 28-40 and Fig. 5 & 8);
- d) selecting a treatment in response to the diagnosis (Evans; col. 2, lines 53-58).

K. As per claim 11, Evans discloses the three-screen graphical user interface includes a Summary screen, a History and Physical Exam screen, and an Order Entry screen (Evans; col. 6, lines 37-54 and Fig. 5).

L. As per claim 12, Evans discloses:

- e) comparing the patient information to a database including carepath information (Evans; col. 7, lines 57-64).

M. As per claim 13, Evans discloses:

- f) scheduling follow up appointment dates in response to the selection of the treatment (Evans; col. 5, line 56 to col. 6, line 9).

N. As per claim 14, Evans discloses:

- g) suggesting a procedure in response to the entry of the diagnosis (Evans; col. 11, lines 10-30).

O. As per claim 15, Evans discloses:

h) retrieving patient files stored in a remote location in response to the access of the database (Evans; col. 4, lines 5-8).

P. As per claim 16, Evans discloses a computer implemented system having a memory, a display, and a computer operative to generate a graphical user interface on the display, the graphical user interface comprising:

a. a display view including a plurality of representations (Evans; col. 7, lines 6-14 and Fig. 5-8) grouped into:

- i. a summary group including representations having an input window operative to receive summary information (Evans; col. 5, lines 56-57 and col. 6, lines 14-36);
- ii. a history/physical exam group including representations having an input window operative to receive history/physical exam information (Evans; col. 5, lines 56-57 and col. 6, lines 14-36); and
- iii. an order entry group including representations having an input window operative to receive order entry information (Evans; col. 5, lines 56-57 and col. 6, lines 14-36); and

b. a plurality of tabs, each tab corresponds to a single representation group, and responds to selection of the tab by displaying the corresponding representation group (Evans; col. 6, lines 37-54 and Fig. 5-8).

Q. As per claim 17, Evans discloses a system as defined in claim 16 wherein the display view further includes an icon that responds to selection by opening a pop-up input window (Evans; col. 7, lines 28-40 and Fig. 8).

R. As per claim 18, Evans discloses a system as defined in claim 16 wherein the summary information is selected from the group consisting of vital signs, complaint, reason(s) for visit, problem history, allergies, alerts, medication history, and combinations thereof (Evans; col. 5, lines 30-37, lines 56-57 and col. 7, lines 60-64).

S. As per claim 19, Evans discloses a system as defined in claim 16 wherein the history/physical exam information is selected from the group consisting of complaint specific information, and observations (Evans; col. 6, lines 14-36).

T. As per claim 20, Evans discloses a system as defined in claim 16 wherein the order entry information is selected from the group consisting of assessments, impressions, tests, procedures, referrals, follow-up dates, prescriptions, and combinations thereof (Evans; col. 7, lines 22-28).

U. As per claim 21, Evans discloses a method comprising:

- a) logging into a computer connected to a network (Evans; col. 1, lines 6-10 and col. 2, lines 45-50);

- b) opening a graphical user interface on the computer, the graphical user interface having a summary screen, a history and physical examination screen, and an order entry screen operative to input data into a database (Evans; col. 5, lines 56-57, col. 7, lines 14-36);

- c) recording vital signs and a complaint into the summary screen on the computer (Evans; col. 6, lines 14-21);

- d) reviewing a patient problem list displayed on the summary screen
(Evans; col. 6, lines 14-36);
- e) updating the patient problem list displayed on the summary screen
(Evans; col. 6, lines 14-36);
- f) reviewing a patient allergies and alerts list displayed on the summary
screen (Evans; col. 12, lines 1-5 and lines 16-34);
- g) updating the patient allergies and alerts displayed on the summary
screen (Evans; col. 12, lines 1-5 and lines 16-34);
- h) reviewing a patient medication summary displayed on the summary
screen (Evans; col. 6, lines 14-21 and col. 7, lines 61-64);
- i) updating the patient medication summary displayed on the summary
screen (Evans; col. 6, lines 14-21);
- j) holding or locking the graphical user interface for use by a physician
(Evans; col. 2, lines 45-64);
- k) unholding or unlocking the graphical user interface for use by a
physician (Evans; col. 2, lines 45-64);
- l) reviewing updated summary information displayed on the summary
screen (Evans; col. 6, lines 14-36);
- m) entering complaint specific information during a history and physical
examination via the history and physical examination screen (Evans; col.
6, lines 14-36);

- n) making a patient assessment in response to the history and physical examination (Evans; col. 5, lines 40-49);
- o) recording impressions of the patient via the order entry screen (Evans; col. 5, lines 49-55);
- p) selecting tests, referrals, follow-up appointments, and procedures in response to the patient impressions recorded on the order entry screen (Evans; col. 5, line 56 to col. 6, line 9);
- g) recording patient goals via the order entry screen (Evans; col. 11, lines 37-52);
- r) making medication orders via the order entry screen (Evans; col. 11, lines 10-17);
- s) reviewing patient instructions, laboratory and radiology orders, and prescriptions that are displayed on a encounter note displayed on the order entry screen (Evans; col. 6, lines 14-36);
- t) signing or approving the encounter note (Evans; col. 7, lines 22-28);

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited but not used prior art teach "Method and apparatus for alerting patients and medical personnel of emergency medical situations" 5,416,695 A, "Computer system and method for storing medical histories using a carrying size card" 5,659,741 A, "Integrated disease information system" 6,108,635 A, "Hospital Data

Art Unit: 3626

Processing System" 3,872,448 A, "Database Graphical User Interface With Tabbed User View" 5,949,413.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dilek B. Cobanoglu whose telephone number is 571-272-8295. The examiner can normally be reached on 8-4:30.

12. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on 571-272-6776. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

13. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DBC

DBC
Art Unit 3626
4/13/2006


C. LUKE GILLIGAN
PATENT EXAMINER